

**APPENDIX L**  
**TXDOT RIGHT OF WAY ACQUISITION AND RELOCATION ASSISTANCE**



# STATE PURCHASE OF RIGHT OF WAY



**Right of Way Division**

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# INTRODUCTION

The Texas Department of Transportation is the organization that is responsible to you and millions of other Texans for planning, building and maintaining the state highway system and certain other public transportation facilities. In order to carry out these responsibilities, it is sometimes necessary for us to acquire right of way on new or existing locations. Since at least a portion of your property is required for right of way to improve the public transportation system in your community, we are providing you with this booklet to explain briefly your rights as a citizen as well as the procedure which will be followed in purchasing your property and to answer some of the questions that you probably have.

All of your questions regarding right of way matters will not likely be answered in this booklet, but perhaps the answers to a few of them will enable you to have a better understanding of the overall process. This booklet is offered for general information purposes only; it is not a document of law, rule or regulation. You will have an opportunity at a later date to discuss your individual case with a representative of our department and to ask any questions you may have. On the last page of this booklet you will find the name, telephone number and address of our representative.

This booklet applies only to those rights of way that are acquired for the state of Texas directly by the Texas Department of Transportation. Cities and counties also acquire rights of way for transportation projects.

## **PUBLIC NEED FOR PRIVATE PROPERTY**

Perhaps the first questions that should be answered is “Why does the government have the right to acquire private property?” Our successful existence in a democracy requires the development of public services to improve our way of life. We would be handicapped greatly without lands upon which to carry out the activities of government. For example, there would be no lands for public schools, highways, public hospitals or other facilities necessary to our society. In short, a government cannot provide services to its citizens without the right to acquire land.

## **WHY YOUR PROPERTY IS NEEDED**

More particularly, of course, you are concerned about the reasons why your property is needed. You may have attended a meeting or public hearing where the need and methods of project development were discussed. If so, you are already aware that the department uses a systematic approach to assess engineering conditions, beneficial and adverse social, economic, environmental and other effects of any project that is proposed. Projects are not selected arbitrarily. They are the result of cooperative efforts with proper local agencies, the study of alternatives and a balanced consideration of the need for safe and efficient public transportation. You may be sure that this process was followed on the particular project that involves your property.

Under our form of government, the rights of the individual are of paramount importance. Our laws guarantee these individual rights for all of us. However, our laws also recognize another principle, namely, the public good, which sometimes makes it necessary to resolve a difficult matter such as public acquisition of private property in favor of the majority for the good of all.

Every effort is made to reach a fair and equitable agreement in the purchase of all right of way needed for public transportation pur-

poses. It is hoped sincerely that when a highway project route and design have finally been determined, all citizens will agree that fair and equitable consideration has been given to the property owners involved and that the selected route is in the best interest of the general public.

## **CONTACT BY THE DEPARTMENT**

“When will I know something definite?” This surely is one of the questions you will have. You will be contacted personally by one of our authorized representatives. However, this contact must be delayed until all preliminary requirements for highway project development have been met. In some instances, the time between that date you may have heard of a proposed project and the time you are actually contacted may seem unreasonable, but every effort is made to expedite the various planning, engineering, environmental, public hearing and approval steps so that purchase of right of way can begin at the earliest possible date.

## **COMPENSATION**

You will, of course, want to know how much you will receive for your property. As a property owner, you have the constitutionally guaranteed right to receive just compensation for the property that will be purchased from you. Even though you have the right to receive such compensation, you may make a gift or donation of all or part of the property if you wish to do so. Where payment is to be made, the real property will be appraised to determine just compensation.

Our representative will contact you before any appraisal is made. A thorough investigation of your property will be made to determine its value in accordance with state law. You or your designated representative will be given an opportunity to accompany the appraiser who is evaluating the real estate during the inspection

of the property. Your cooperation and input will aid greatly in ensuring that nothing is overlooked which ought to be included in the appraisal of your property. All appraisals are carefully reviewed by the department to assure that proper appraisal principles and methods have been used to arrive at the value to be offered for your property.

As soon as the appraisal and appraisal review work can be completed, you will be provided a written offer in the amount of the total approved value. You will be provided a copy of the state's appraisal report and you should note that if you already have an appraisal report you are required to provide a copy of it to the state. If you decide to have a separate appraisal done, you are required to provide a copy of it to the state in accordance with the Texas Attorney General's Landowner's Bill of Rights, a copy of which will be provided to you. You will also be advised in the written offer concerning the possible option of retaining any building or other improvements located on the land needed for right of way. Where appropriate, the just compensation for the real property to be acquired and for compensable damages to remaining real property will be stated separately.

Your decision regarding the state's offer for your property needs to be made at the earliest possible time so that the completion of the acquisition process is not delayed. You can appreciate the fact that there is a definite time frame required for every aspect of the highway or transportation project that involves your property.

## **ADMINISTRATIVE SETTLEMENTS**

An administrative settlement is any settlement which is in excess of the agency's approved value. If an agreement on the approved value cannot be reached, the owner may request an administrative settlement. The administrative settlement process is:



- 1) A timely written counteroffer is required and must include a property owner's signed proposal for full settlement setting forth a specific dollar amount with information to support the proposal.
- 2) The counteroffer will be reviewed by an evaluation team.
- 3) The property owner will be notified of the team's decision.
- 4) If an administrative settlement is not approved or if the property owner decides to reject an approved administrative settlement, a final offer letter will be issued at the original approved value.

If improvements are retained, the retention value will be subtracted from the total settlement amount.

## **DONATION OF RIGHT OF WAY**

The donation or gift of all or a portion of your property that is needed for right of way is an option that you have. Obviously, the state funds that are saved if property is donated can be utilized for construction and/or other highway purposes. Donations can also help to expedite the letting of construction contracts and lead to an earlier completion of the project.

In situations where remaining property will be increased greatly in value by the construction of the highway or other transportation facility, the donation of right of way may be to your advantage as a property owner by making your property more suitable for timely development. There are undoubtedly other good and valid reasons for consideration to be given to the possibility of donation or the acceptance of reduced compensation. If you elect to donate your property, an appraisal will be made unless you elect to waive this option.

## **DAMAGES TO REMAINING PROPERTY**

If you have a question about damages, you should know that in many cases highway construction will enhance rather than damage

remaining property. When only a portion of your property is needed, you will be offered an amount for damages only if the appraisal process indicates that your remaining property will have a lesser value after the highway is constructed. The amount established for damages, if any, will be stated separately and will also be included in the total offer made to you by the department.

## **RELOCATION OF IMPROVEMENTS**

Many property owners would like to know if their house or buildings can be moved. If the state's offer for your property is acceptable, arrangements usually can be made for you to keep your house or buildings and move them to another location. Removal of such improvements is the owner's responsibility. Since each case is different, it is best that you discuss this with our authorized representative when you are contacted.

## **TIME ALLOWED FOR RELOCATION**

"Will I have time to look for another home?" is another question that often arises. If your home is purchased, you will be paid the full consideration. Before you are required to move you will be given adequate time to find and buy another home using the proceeds from our purchase. You are not required to move until you receive a written notice and a date to vacate. To the greatest extent practicable you will be given at least 90 days written notice of the date by which you must move. This applies not only to homes but also to all properties where a property owner relocates to a new property or moves retained buildings, fences or other improvements to remaining property.

## **PROPERTY ADJUSTMENT WORK**

Some property owners ask "Will I have time to fence or do other work on my remaining property?" Every effort will be made to make the offer of purchase sufficiently in advance of construction to allow

time for necessary property adjustment work. Examples of property adjustment work are the building of fences along the right of way lines, the construction of new watering facilities for livestock, the removal of any buildings or other improvements which an owner desires to keep from the right of way area being purchased and their reestablishment elsewhere and the adjustment of water lines and similar facilities which are necessary to continued best use of the remaining property.

## **FARMING OF CROPS**

If crops have been planted, the offer to purchase will usually be based on your retaining a right to harvest crops in the ground, with the understanding that after closing the transaction no new crops will be planted. An exception to this procedure is when construction is so imminent that it is not possible to allow time for the harvesting of existing crops. In that case our offer to you will include payment for the existing crops based on the value of such crops at the time of the offer.

## **MORTGAGES**

### **ABOUT YOUR MORTGAGE**

As is the case in the handling of any other real estate transaction, payments must be made to satisfy outstanding mortgages or liens. If only a portion of your property is being acquired, agreement must be reached with the mortgage or lien agency concerning payment requirements. If you were selling your property in a private real estate transaction and part or all of an outstanding mortgage had to be paid, many lending agencies would require a prepayment penalty. Since this sale is being made to the public, most lending agencies, including the Federal Housing Administration, waive this requirement. However, some do not, and you should investigate this matter to determine whether or not such a penalty will have to be paid.

## **THE VA LOAN**

The Veterans Administration recognizes that the sale of your property is not of your choosing. Under these circumstances, your loan privileges may be restored and made available for coverage of another property. The veteran must initiate this action.

## **SMALL BUSINESS LOAN**

The Small Business Administration administers funds for loans for small businesses. You may wish to contact one of their offices to determine how to qualify for a loan.

## **INCOME TAXES**

If your property is worth more today than when you bought it, you may be wondering about paying income tax on the difference when you sell to the public. The sale of property for public purposes comes under a class which the Internal Revenue Service designates as “involuntary conversion.” It may not be necessary to pay income tax or capital gains tax depending on how you reinvest your profit from the sale to the state. Any payment received for damages also may not be taxable. You are, therefore, urged to contact the Internal Revenue Service Office which serves your area or seek legal advice on these matters.

## **EMINENT DOMAIN PROCEEDINGS**

Although a sincere and comprehensive effort is made to determine just compensation for the right of way required, including improvements and damages to any of your remaining property and the utilization of the administrative process, you may still not be satisfied and may refuse to sell. In other instances, the title to the land needed for right of way may be clouded to the extent that legal proceedings are necessary to effect transfer of clear title. In these and a few other cases, eminent domain proceedings have to be initiated by the state.

In eminent domain proceedings, the court will appoint three disinterested landowners to serve as Special Commissioners and a hearing will be held to determine the value of the property being acquired. The property owner will be notified of the time and place of the hearing. At this hearing, the Special Commissioners will listen to the evidence of value and arrive at an award that will be filed with the court. A deposit in the amount of the award may be made with the court at which time the state will be entitled to take possession of the property involved. After the deposit is made, the court must authorize withdrawal of the award. If either the property owner or the state is dissatisfied with the amount of the award, objections to the award may be filed within the time limits prescribed by law and the case subsequently tried in the same manner as other civil cases. The basic issue decided in eminent domain cases is the amount of just compensation for the property being acquired and, in the case of a partial acquisition, any damages to the value of your remaining property. For additional information on eminent domain procedures consult the Texas Attorney General's Landowner's Bill of Rights.

If any improvements are included in the property being acquired, they may not be retained by the property owner in eminent domain proceedings.

## **RELOCATION ASSISTANCE AND BENEFITS**

In addition to payment for your property, you may be entitled to additional benefits. If you must move, you may be entitled to assistance in locating another home or business and financial assistance in the form of moving and related expenses. Such benefits, if any, are in addition to the state's offer for your property and are handled separately from the purchase of your real property. It is beyond the scope of this booklet to detail specific benefits; however, if you are eligible, your rights and benefits will be fully explained in detail. A separate relocation assistance booklet is available and you will be furnished with one if you have to move and/or your personal property has to be moved. If the needed right of way is occupied

by a home, business or any personal property, DO NOT MOVE UNTIL YOU HAVE BEEN CONTACTED BY A RELOCATION ASSISTANCE COUNSELOR AND HAVE ESTABLISHED ELIGIBILITY FOR POSSIBLE RELOCATION BENEFITS. MOVING PREMATURELY MAY RESULT IN FORFEITURE OF THESE BENEFITS.

## **INCIDENTAL EXPENSES**

After the date of payment of the purchase price, or the date of deposit in court of funds to satisfy the award of compensation as determined through eminent domain proceedings to acquire real property, you will be reimbursed for any fair and reasonable expenses necessarily incurred in transferring title to the property for use by the Texas Department of Transportation. Expenses eligible for reimbursement may include (1) recording fees, transfer taxes and similar expenses incidental to conveying the real property to the department and (2) penalty costs for prepayment of any preexisting recorded mortgage entered into in good faith encumbering the real property. Voluntary unnecessary expenses or expenses incurred in clearing questionable title will not be eligible for reimbursement. The Texas Department of Transportation will reimburse eligible incidental expenses upon submission of a claim supported by receipted bills or other evidence of actual expenses incurred. You may file a written request for review if you believe that the department failed to properly determine the eligibility for or the amount of incidental expenses to be reimbursed. There is no standard form on which to request review of a claim; however, it must be filed with the department's district office for your area within three months after you are notified of the department's determination on any claim for reimbursement.

## YOUR CIVIL RIGHTS

In accordance with Title VI of the Civil Rights Act of 1964 and related statutes, it is the policy of the department to ensure that no person in the United States of America shall, on the grounds of race, religion (where the primary objective of the financial assistance is to provide employment. 42 U.S.C. §2000d-3), color, national origin, sex, age, retaliation or disability be excluded from participation in, be denied the benefits of or be otherwise subjected to discrimination under any of our programs or activities.

If you believe you have been discriminated against or your rights have been violated under any program or activity of the department, you may file a Title VI Discrimination Complaint.

The Title VI Discrimination Complaint Form can be obtained by:

- Visiting TxDOT's website at <http://www.txdot.gov> and entering keywords "civil rights."
- Contacting the Office of Civil Rights 1-866-480-2518.
- Visiting, in person, the Office of Civil Rights located at 125 E. 11th Street, Austin, TX 78701.

If you have any questions regarding the completion of the form, you may contact the Office of Civil Rights at the number listed above. Upon request, assistance will be provided if you are limited English proficient or disabled. Complaints may be filed using an alternative format, e.g., computer disk, audio tape or in Braille. If you have a speech or hearing impairment, dial Texas Relay at 1-800/735-2988 or 711 for assistance.

The department's Office of Civil Rights will notify you when it receives your complaint.

## CONCLUSION

Your Texas Department of Transportation sincerely hopes that the purchase of your property can be accomplished to your satisfaction with an absolute minimum of inconvenience to you. We will be more than happy to assist you in any way we can.

Name, address and telephone number of our representative:

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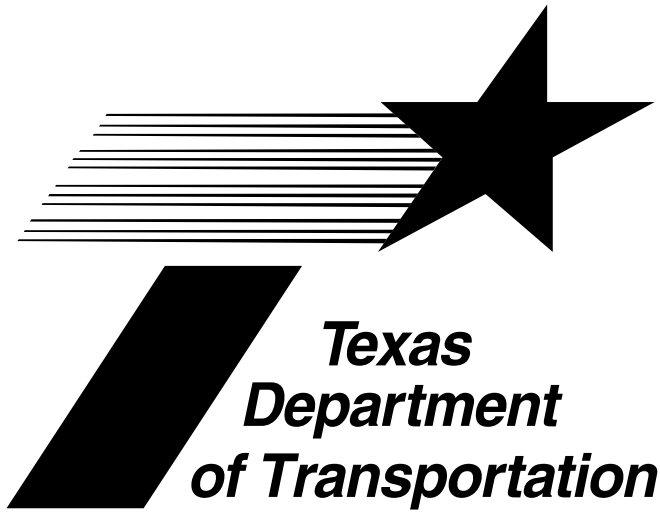
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# RELOCATION ASSISTANCE



RIGHT OF WAY DIVISION



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## Introduction

The development of highways or other public transportation services needed to serve and improve our way of life require the use of land. This, in turn, means that some persons may be required to move to another location. Your Texas Department of Transportation (TxDOT) is aware of the cost and inconvenience associated with having to move from a home, business or farm. In order to assist those who are required to move, TxDOT provides, through its relocation assistance program, payments and services to aid in movement to a new location.

This brochure provides information about available relocation services and payments:

- ❖ Section I is information for residential displacees.
- ❖ Section II is information for displaced businesses, farms and nonprofit organizations.
- ❖ Section III is for advertising signs.
- ❖ Section IV is on relocation assistance services.
- ❖ Section V is how to claim a relocation payment.
- ❖ Section VI is information on a person's right to appeal TxDOT's determination regarding the amount of a relocation payment or the person's entitlement to a relocation payment.

If you are required to move as the result of the acquisition of property for a TxDOT project, a relocation counselor will contact you. The counselor will be able to answer your specific questions and provide additional information. To ensure maximum relocation benefits you must discuss any proposed move with the relocation assistance counselor so that a definite understanding as to eligibility requirements can be reached.

### **Special Note**

It is not possible to cover the needs and questions of each person; therefore, this brochure is offered for general information purposes only; it is not a document of law, rule or regulation.

## **Qualification for Assistance**

Relocation assistance is available to individuals, families, businesses, farmers, ranchers and nonprofit organizations lawfully present in the United States who are displaced as a result of a State highway or transportation project. This assistance applies to tenants as well as owners occupying the real property needed for the project.

## **Advance Notice**

Each displaced person will be given sufficient time to plan for an orderly, timely and efficient move. This applies not only to residential occupants but to all properties where an occupant has to move to a new location or move his property to a new location. To the greatest extent practicable, no person lawfully occupying real property will be required to move from that site without at least a 90-day written notice.

### **Caution**

To assure eligibility and prompt payment of your relocation benefits, you must provide TxDOT (your relocation assistance counselor) an advance written notice of the approximate date of the planned move and a list of the items to be moved so that a TxDOT representative may inspect the personal property at the displacement and replacement sites and monitor the move. An occupant who moves prior to the date negotiations are initiated for acquisition of the property will not be eligible for any relocation payment unless he or she receives a written notice of advanced relocation eligibility before he or she moves from the property.

## **Some Important Definitions ...**

### **Acquiring Agency**

The “acquiring agency” which shall be referred to as the “agency” may be the Texas Department of Transportation (hereinafter referred to as “TxDOT”) or a political subdivision of the State.

### **Displaced Person**

Any person (individual, family, corporation, partnership, or association) who moves from real property or moves personal property from real property as the result of the acquisition of the real property, in whole or in part, or as the result of a written notice from TxDOT to vacate the real property needed for a State high way or transportation project. In the case of partial acquisition, TxDOT shall determine if a person is displaced as a direct result of the acquisition. Relocation benefits will vary, depending upon the type and length of occupancy of the acquired property. As a displacee, you will be classified as:

- ❖ An owner occupant of a residential property. (Includes mobile homes).
- ❖ A tenant occupant of a residential property. (Includes mobile homes and sleeping rooms).
- ❖ A business, farm or nonprofit organization.

### **Business**

Any lawful activity conducted primarily for the purchase, sale, lease, and rental of personal or real property, or for the manufacture, processing, and/or marketing of products, commodities, or any other personal property; or for the sale of services to the public; or solely for the purpose of this Act, an outdoor advertising display(s) that must be moved as a result of a State highway or transportation project.

## **Family**

The term “family” means two or more individuals living together in a single family dwelling unit who: . . . are related by blood, adoption, marriage, or legal guardianship who live together as a family unit, plus all other individuals regardless of blood or legal ties who live with and are considered a part of the family unit, or are not related by blood or legal ties but live together by mutual consent.

## **Farm**

Any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale and home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator’s support.

## **Initiation of Negotiations**

The date the acquiring agency makes its first written offer to an owner of real property, or the owner’s representative, to purchase the real property for a State highway or transportation project.

## **Nonprofit Organization**

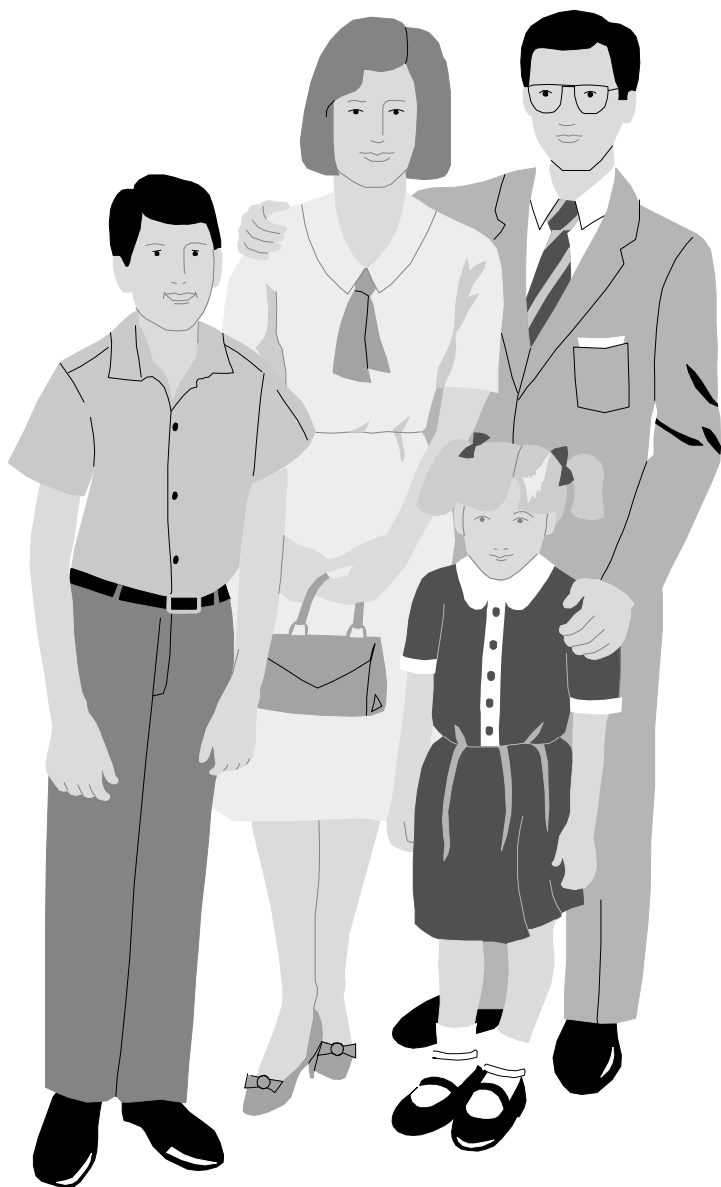
A public or private entity that has established its nonprofit status under applicable Federal or State law and exempt from paying Federal income taxes under Section 501 of the Internal Revenue Code.

## **Small Business**

A business having no more than 500 employees working at the site being acquired.



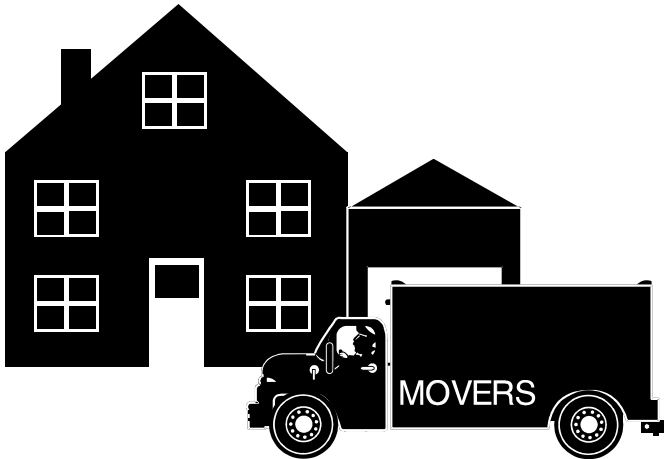
## **Section I: Information for Residential Displacees**





## **Moving Cost Reimbursement**

If you qualify as a displaced person, you are entitled to reimbursement of your moving costs and certain related expenses incurred in moving. The methods of moving and the various types of moving cost payments are explained below.



### **Individuals and Families**

Displaced individuals and families may choose to be paid on the basis of actual, reasonable moving costs and related expenses, or according to a fixed moving cost schedule. However, to assure your eligibility and prompt payment of moving expenses, you must contact the relocation counselor from TxDOT before you move.

**You Can Choose Either:**



**Actual Reasonable  
Moving Costs**

**-OR-**

**Fixed Moving Cost  
Schedule**

**Including:**

- ❖ Packing and Unpacking
- ❖ Temporary Storage
- ❖ Transportation
- ❖ Moving Insurance
- ❖ Other Related Costs

**Based on**

**Room Count**

## Actual Reasonable Moving Costs

You may be paid for your actual reasonable moving costs and related expenses when the move is performed by a commercial mover. Reimbursement will be limited to a 50-mile distance.

Related expenses may include:

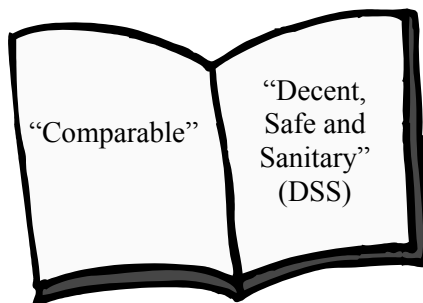
- ❖ Packing and unpacking personal property.
- ❖ Disconnecting and reconnecting household personal property
- ❖ Utility and telephone connection charges.
- ❖ Temporary storage of personal property.
- ❖ Insurance while property is in storage or transit.
- ❖ Mobile home park entrance fees.
- ❖ Expenses must be necessary and reasonable as determined by TxDOT and supported by receipts.

## Fixed Moving Cost Schedule

Or you may choose to be paid on the basis of a fixed moving cost schedule. The amount of the payment is based on the number of rooms in your dwelling. If you choose this option, receipts are not necessary. Under this option you will not be eligible for reimbursement of related expenses listed above.

## Replacement Housing Payments

**Replacement Housing Payments . . .** can be better understood if you become familiar with the definition of the following terms . .



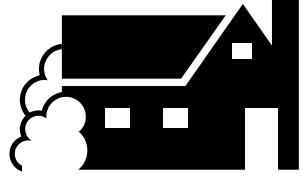
These terms are explained on the following pages.

## **A “Comparable” Replacement means that your...**

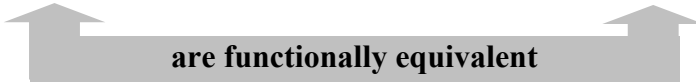
### **Present Dwelling**



### **Replacement Dwelling**



**and**



Regarding:

- ❖ Number of Rooms
- ❖ Living Space
- ❖ Location
- ❖ Square footage

A comparable replacement dwelling must be decent, safe, and sanitary, and should be functionally equivalent to your present dwelling. While not necessarily identical to your present dwelling, the replacement should have certain attributes:

- ❖ Have similar number of rooms and living space.
- ❖ Located in an area not subject to unreasonable adverse environmental conditions.
- ❖ Generally not be less desirable than your present location with respect to public utilities and commercial and public facilities.
- ❖ Located on a site that is typical size for residential development with normal site improvements.
- ❖ Currently available to you and within your financial means.

## **Decent, Safe, and Sanitary (DSS) ...**

Replacement housing must be decent, safe, and sanitary ... which means it meets all of the minimum requirements established by the State and conforms to applicable housing and occupancy codes. The dwelling shall:

- ❖ Be structurally sound, weathertight, and in good repair.
- ❖ Contain a safe electrical wiring system adequate for lighting and electrical appliances.
- ❖ Contain a heating system capable of sustaining a healthful temperature (of approximately 70 degrees) except in those areas where local climatic conditions do not require such a system.
- ❖ Be adequate in size with respect to the number of rooms and area of living space needed to accommodate the displaced person(s).
- ❖ Contain a well-lighted and ventilated bathroom providing privacy to the user and containing a sink, bathtub or shower stall, and a toilet, all in good working order and properly connected to appropriate sources of water and sewage drainage system.
- ❖ Contain a kitchen area with a fully usable sink, properly connected to potable hot and cold water and to a sewage drainage system, with adequate space and utility connections for a stove and refrigerator.
- ❖ Have unobstructed egress to safe, open space at ground level.
- ❖ Be free of any barriers which prevent reasonable ingress, egress, or use of the dwelling in the case of a disabled displacee.

## **Replacement Housing Payments Are Separated Into Three Basic Types:**

- ❖ Purchase Supplement (page 13)
- ❖ Rental Assistance (page 16)
- ❖ Down Payment (page 20)

The type of payment depends on whether you are an owner or a tenant, and how long you have lived in the property being acquired prior to negotiations.

## **The Two Basic Occupancy Time Periods and What You Are Entitled To**

There are two basic length of occupancy requirements which determine the type of replacement housing payment to which you are entitled. Length of occupancy simply means counting the number of days that you actually occupied a dwelling immediately before the date of initiation of negotiations by the acquiring agency for the purchase of the property.

Owners who were in occupancy 180 days or more immediately prior to the initiation of negotiations may be eligible for a purchase supplement up to \$22,500 or a rental assistance payment up to \$5,250.

If you are a residential owner or a tenant who has been in occupancy 90 days or more immediately prior to the initiation of negotiations, you may be eligible either for a rental assistance payment or a down payment up to \$5,250.

If you have been in occupancy less than 90 days before the initiation of negotiations and the property is subsequently acquired, or if you move onto the property after the initiation of negotiations and you are still in occupancy on the date of acquisition, you may be eligible for last resort housing (see page 22). Check with the relocation counselor for more details regarding benefits.

## **Purchase Supplement**

### **For Owner Occupants for 180 days or More**

If you are an owner and have occupied your home for 180 days or more immediately prior to the initiation of negotiations for the acquisition of your property, you may be eligible, in addition to the just compensation for your property, for a supplemental payment, not to exceed \$22,500 for all costs necessary to purchase a comparable decent, safe, and sanitary replacement dwelling. The Department will compute the maximum payment you are eligible to receive. You must purchase and occupy a DSS replacement dwelling within one (1) year.

## **The Purchase Supplement Includes:**

### **Price Differential**

The price differential payment is the amount by which the cost of a replacement dwelling exceeds the acquisition cost of the displacement dwelling. The price differential payment and the following payments are in addition to the acquisition price paid for your property.

### **Increased Mortgage Interest Costs**

You may be reimbursed for increased mortgage interest costs if the interest rate on your new mortgage exceeds that of your present mortgage. To be eligible your acquired dwelling must have been encumbered by a bona fide mortgage which was a valid lien for at least 180 days immediately preceding the initiation of negotiations.

### **Incidental Expenses for Replacement Housing**

You may also be reimbursed for other expenses such as reasonable costs incurred for loan applications, recording fees, and certain other closing costs, but not including prepaid expenses such as real estate taxes and property insurance or costs for services normally paid by sellers of residential properties or

provided by title companies and closing agents as part of other services. The total amount of the purchase supplement cannot exceed \$22,500, according to the law.

**Example of a Price Differential Payment Computation**

Assume that TxDOT purchases your property for \$50,000. After a thorough study of available decent, safe, and sanitary dwellings on the open market, TxDOT determines that a comparable replacement property will cost you \$60,000. If your purchase price is more than \$60,000, you pay the difference (see Example B). If your purchase price is less than \$60,000, the differential payment will be based on actual costs (see Example C). How much of the differential payment you receive depends on how much you actually spend on a replacement dwelling as shown in three examples on the next page.

**Acquiring Agency’s Computation**

Comparable Replacement Property	\$60,000
Acquisition Price of Your Property	<u>\$50,000</u>
Maximum Price Differential	\$10,000

**Example A:**

Purchase Price of Replacement	\$60,000
Comparable Replacement Property	\$60,000
Acquisition Price of Your Property	<u>\$50,000</u>
Maximum Price Differential	\$10,000

**Example B:**

Purchase Price of Replacement	\$63,500
Comparable Replacement Property	\$60,000
Acquisition Price of Your Property	<u>\$50,000</u>
Maximum Price Differential	\$10,000
You Must Pay the Additional	\$ 3,500

**Example C:**

Comparable Replacement Property	\$60,000
Purchase Price of Replacement	\$57,500
Acquisition Price of Your Property	<u>\$50,000</u>
Maximum Price Differential	\$ 7,500

(see next page for a more graphic example.)

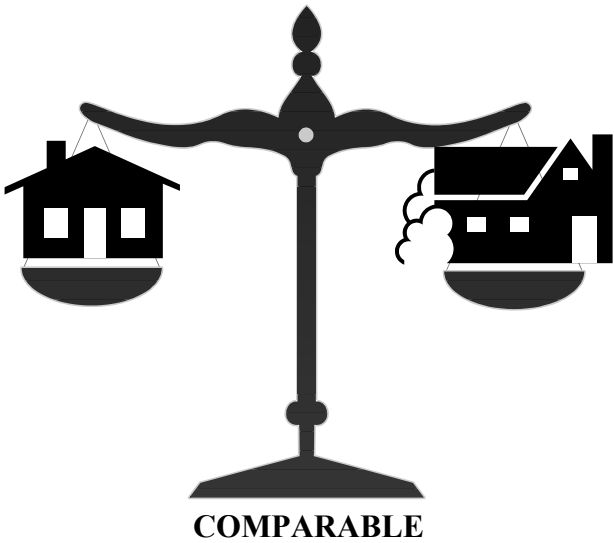


**Example...**

<p><b>Original Acquisition Cost \$50,000</b></p>
--

<p><b>Comparable Replacement Cost \$60,000</b></p>
--

**Price Differential  
Payment may be  
any amount up to  
\$10,000**



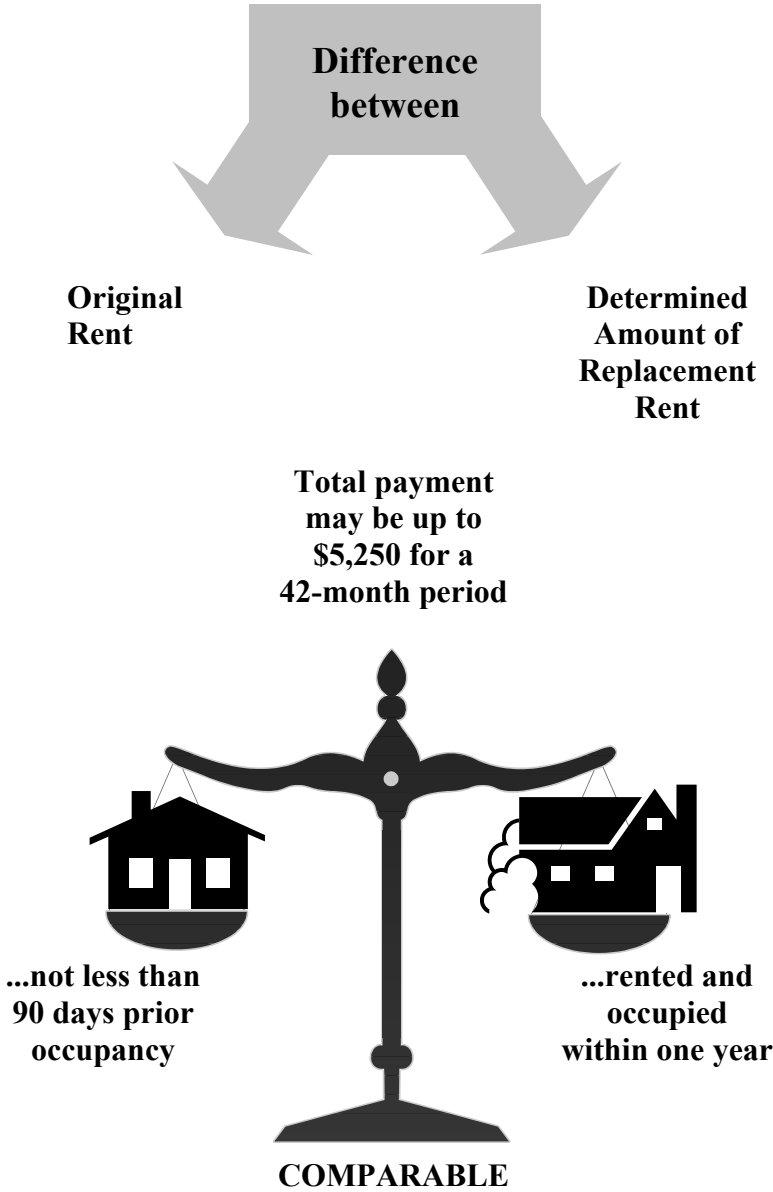
## **Rental Assistance**

### **For Owner Occupants and Tenants of 90 Days or More**

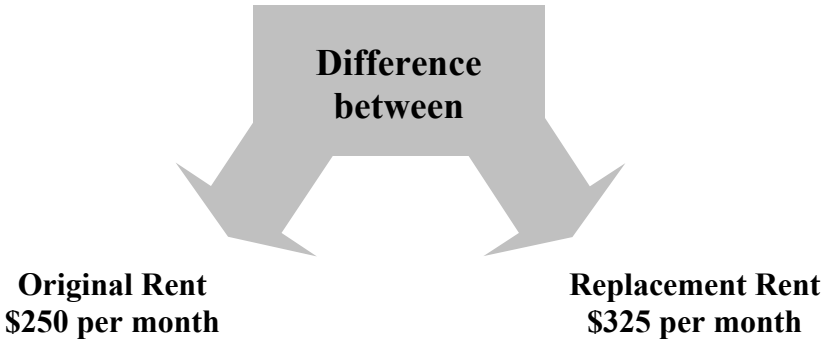
Owner occupants and tenants of 90 days or more may be eligible for a rental assistance payment. To be eligible for a rental assistance payment, tenants and owners must have been in occupancy at least 90 days immediately preceding the initiation of negotiations for the acquisition of the property. This payment was designed to enable you to rent a comparable decent, safe, and sanitary replacement dwelling for a 42-month period. If you choose to rent a replacement dwelling and the rental payments are higher than you have been paying, you may be eligible for a rental assistance payment up to \$5,250. TxDOT will determine the maximum payment you may be eligible to receive in accordance with established procedures. The rental assistance payment will be paid in a lump sum unless TxDOT determines that the payment should be paid in installments. You must rent and occupy a DSS replacement dwelling within one (1) year to be eligible.

For graphic examples, see the next two pages.

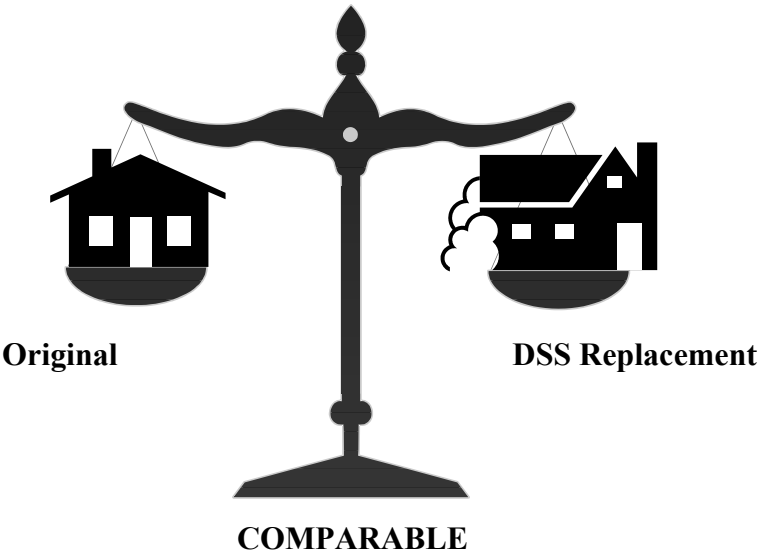
**Example ....**



**Example....**



**Total Rental Assistance  
Payment for 42  
months is \$3,150  
(\$75 X 42 mos.)**



## **For Instance...**

As an example of how a rental assistance payment is computed, let's assume that you have been paying \$250 per month rent for the dwelling occupied by you and purchased by the agency. After a study of the rental market, TxDOT determines that a replacement rental unit, which is DSS and comparable to your present dwelling, is available for \$325 per month. The maximum rental assistance payment you can receive in this case is \$75 per month for a 42-month period, or \$3,150.

### **Option A**

If you select a replacement dwelling which rents for \$350 per month, despite the availability of comparable DSS replacement rental units that rent for \$325 per month, you will still receive only the maximum computed payment of \$3,150. In other words, you must pay the additional \$25 per month.

### **Option B**

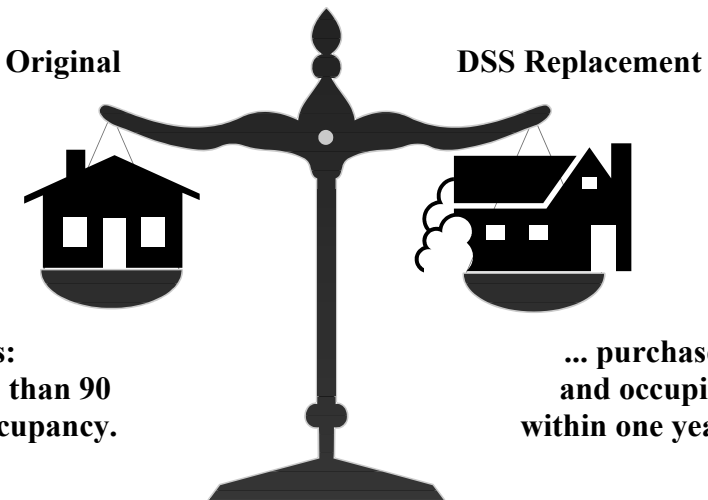
If you select a replacement dwelling which rents for more than your present rent but less than the amount determined by the agency, you will be paid on the basis of actual cost. For example, assume you select a replacement dwelling unit that rents for \$300 per month. On the basis of actual cost you will be eligible for a payment of \$50 per month for 42 months, or \$2,100. The computation of a rental assistance payment for a owner occupant is slightly more complex and space does not permit its inclusion in this brochure. Owners interested in renting should contact TxDOT for a complete explanation.

## Down Payment

**Owner-occupants of 90 days to 179 days, and tenants of 90 days or more**

**Up to \$5,250  
Down Payment**

**Will be paid on  
replacement**



**Tenants:  
Not less than 90  
days occupancy.**

**... purchased  
and occupied  
within one year.**

**Owners:  
Less than 180  
days but more  
than 90 days  
occupancy.**

**COMPARABLE**

Owner-occupants of 90 days to 179 days and tenants of 90 days or more may be eligible for a down payment, and incidental expenses, not to exceed (the amount of the approved rental assistance supplement). Incidental expenses for replacement housing include the reasonable costs of loan applications, recording fees, and certain other closing costs but do not include prepaid expenses such as real estate taxes and property insurance. You may also be eligible for the reimbursement of loan origination or assumption fees, if such fees are normal to real estate transactions in your area and they do not represent prepaid interest. Remember, you must purchase and occupy a DSS replacement dwelling within one (1) year of your moving date (for owners) or one (1) year of the date of the 90-day Notice to Vacate (for tenants)

A thorough explanation of the computation can be found on the next page.

**Down Payment Computation (Example)**

<b>Actual Down Payment</b>	<b>\$7,000</b>
<b>Closing &amp; Incidental Costs</b>	<b><u>950</u></b>
<b>Total Amount Needed</b>	<b>7,950</b>
<b>Agency Rental Assistance Supplement</b>	<b><u>-5,000</u></b>
<b>Displacee Pays</b>	<b>\$2,950</b>

**Explanation of Down Payment Computation**

From the example shown on the previous page, the total down payment and closing costs is \$7,950. The total payment by TxDOT will be \$5,000, which is the previously approved rental supplement (see above). The displacee must pay \$2,950 in order to purchase this property.

Although this may sound complicated, the relocation counselor from TxDOT will explain the procedure to you personally.

## **Last Resort Housing**

On most projects, an adequate supply of housing will be available for sale and for rent, and the benefits provided will be sufficient to enable you to relocate to comparable housing. However, there may be projects in certain locations where the supply of available housing is insufficient to provide the necessary housing for those persons being displaced. When a housing shortage occurs, TxDOT will solve the problem by the administrative process called **Last Resort Housing**. If comparable housing is not available, or it is not available within the maximum \$5,250 or \$22,500 payment limits, it must be provided before you are required to move. In such cases TxDOT has broad flexibility in providing the required housing and can, if necessary, provide replacement housing payments in excess of the normal \$5,250 and \$22,500 payment limits.

All eligible displacees have a freedom of choice in the selection of replacement housing. If a displacee decides not to accept the replacement housing offered by TxDOT, the displacee may secure a replacement dwelling of his/her choice, providing it meets DSS housing standards. If you are eligible for replacement housing under the Last Resort Housing program, you will be so informed by the relocation counselor, who will thoroughly explain the program.

## **Fair Housing**

The Fair Housing Law (Title VIII of the Civil Rights Act of 1968) sets forth the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States. This Act and later Acts and amendments make discriminatory practices in the purchase and rental of most residential units illegal if based on race, color, religion, sex, or national origin. Whenever possible, minority persons shall be given reasonable opportunities to relocate to decent, safe, and sanitary replacement dwellings, not necessarily located in an area of minority concentration, that are within their financial means.

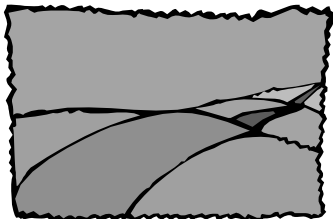


This policy, however, does not require an acquiring agency to provide a person a larger payment than is necessary to enable a person to relocate to a comparable replacement dwelling.

## **To All Residential Displacees. . .**

The most important thing to remember is that the replacement dwelling you select must meet the basic “decent, safe, and sanitary” standards to receive any benefits. Do not execute a sales contract or a lease agreement until a representative from TxDOT has inspected and certified in writing that the dwelling you propose to purchase or rent does meet the basic standards. Please do not jeopardize your right to receive a replacement housing payment by moving into a substandard dwelling.

**Section II: Information for Businesses, Farms,  
and Nonprofit Organizations**



## **Moving Cost Reimbursement: Businesses, Farms, and Nonprofit Organizations**

**Owners or tenants may be reimbursed on the basis of actual reasonable moving costs and related expenses or, under certain circumstances, a fixed payment.**

A. Actual reasonable moving expenses may be paid when the move is performed by a professional mover or if you move yourself (page 27). Related expenses, such as personal property losses (page 28), and expenses in finding a replacement site (page 28), may also be reimbursable. You may also be reimbursed for expenses incurred in the reestablishment of your business (page 28).

or,

B. You may be eligible to receive a fixed payment from \$1,000 to \$20,000. This payment is based on the annual net earnings of the business or farm, not to exceed \$20,000. To qualify for a fixed payment, certain conditions must be met. See page 31 for detailed information. For a nonprofit organization the fixed payment is the average of two (2) years annual gross revenues less administrative costs, not to exceed \$20,000.00.

## Types of Payments



### **Actual Reasonable Moving Costs**

#### **Including**

Personal Property Losses

#### **Plus**

Expenses in Finding a Replacement

#### **Plus**

Expenses In Reestablishing Your Business

(Reimbursement limited to a 50-mile distance)

### **Fixed Payment in Lieu of Moving Costs, Etc.**

**Businesses and Farms From \$1,000 to \$20,000** Equal to Average of Two (2) Years Annual Net Earnings

**Nonprofit Organizations From \$1,000 to \$20,000** Average of Two (2) Years Annual Gross Revenues Less Administrative Expenses

(Reimbursement limited to a 50-mile distance)

## Two Ways to Move Your Enterprise

- ❖ *Professional Mover.* You may be reimbursed the actual reasonable costs of your move carried out by a professional mover. All of your expenses must be supported by receipts in order to ensure prompt payment of your moving cost claim. Also, costs must be reasonable and necessary. Certain other expenses are also reimbursable, such as packing, crating, unpacking, and uncrating, disconnecting, dismantling, removing, reassembling, and reinstalling relocated machinery, equipment and other personal property. Other expenses such as temporary storage costs, insurance while in transit or storage, and the cost of new licenses and permits may also be reimbursable.
- ❖ *Self-Move.* If you elect to take full responsibility for all or part of the move, TxDOT may approve a negotiated reimbursement payment not to exceed the lowest acceptable bid or estimate prepared by qualified moving firms, moving consultants or a qualified Department employee. If two acceptable bids or estimates cannot be obtained, or you decide to move yourself on an actual cost basis, your moving payment may be based on actual, reasonable moving expenses supported by receipted bills or other evidence of the actual expenses. Cost estimates or bids for negotiated self-move payments shall be obtained by TxDOT. Moreover, self-move payments must be approved by TxDOT before the start of the proposed move.

## Notification and Inspection

To assure eligibility and prompt payment for moving expenses, you should provide TxDOT with advance written notice of the approximate date of the planned move and a list of items to be moved so that TxDOT may inspect the personal property at the displacement and replacement sites and monitor the move.

## **Reestablishment Expenses for Replacement Site**

A small business (not over 500 employees), farm or nonprofit organization may be eligible to receive a payment, not to exceed \$10,000 for expenses actually incurred in relocating and reestablishing such small business, farm or nonprofit organization at a replacement site. These reestablishment expenses must be reasonable and necessary as determined by TxDOT. Your relocation counselor will explain in detail the eligible expenses included under this category of relocation assistance.

## **Direct Losses of Tangible Personal Property/ Purchase of Substitute Personal Property**

Displaced businesses, farms, and nonprofit organizations may be eligible for a payment for the actual direct loss of tangible personal property or the purchase of substitute personal property, which is incurred as a result of the move or discontinuance of the operation. This payment will vary depending upon whether the item is replaced or not; however, it may never exceed the estimated cost of moving and reinstallation.

Your relocation counselor will explain this procedure in detail if you are faced with this problem.

## **Searching Expenses for Replacement Property**

Displaced businesses, farms, and nonprofit organizations are entitled to reimbursement for actual reasonable expenses incurred in searching for a replacement property, not to exceed \$2,500. Expenses may include transportation, meals, and lodging when away from home; the reasonable value of the time spent during the search; fees paid to real estate agents, brokers, or consultants; and other expenses determined to be reasonable and necessary by TxDOT.

## Fixed Payment (In Lieu)

Displaced businesses, farms, and nonprofit organizations may be eligible for a fixed payment in lieu of actual moving expenses, reestablishment expenses, personal property losses, and searching expenses. The fixed payment may not be less than \$1,000 or more than \$20,000 for businesses, farms, and nonprofit organizations.



For a business to be eligible for a fixed payment, TxDOT must determine that each and all of the following apply:

1. The business owns or rents personal property which must be moved in connection with its displacement and for which expense would be incurred in its move.
2. The business cannot be relocated without a substantial loss of its existing patronage.
3. The business is not part of a commercial enterprise having more than three other entities not being acquired and which are under the same ownership and engaged in the same or similar business activities.
4. The business is not operated at a displacement dwelling solely for the purpose of renting such dwelling to others.
5. The business is not operated at the displacement site solely for the purpose of renting the site to others.
6. The business contributed materially to the income of the displaced person during the two (2) taxable years prior to displacement.

For the owner of a farm to be eligible for a fixed payment, the farm operation must be displaced either by total or partial

acquisition. In the case of a partial acquisition, TxDOT must determine that the acquisition caused the operator to be displaced or it caused a substantial change in the nature of the farm operation.

For a nonprofit organization to be eligible for a fixed payment, it must furnish proof of its nonprofit status under applicable Federal or State law.

Applications for fixed payments in lieu of actual expenses must be filed with TxDOT prior to the displacee’s planned move from the displacement property.

**The Computation of Your Fixed Payment (In Lieu)**

The fixed payment is based upon the average annual net earnings of the business or farm operation for the two taxable years immediately preceding the taxable year in which it was displaced.

<b>Example:</b>	<b>1984</b>	<b>1985</b>	<b>1986</b>
	Annual	Annual	Year
	Net	Net	Displaced
	Earnings	Earnings	
	\$8,000	\$10,000	

**AVERAGE**

$\$9,000 = \text{Fixed Payment}$

You must provide information to TxDOT to support your claim. Proof of earnings shall be documented by certified copies of the displacee’s Federal income tax returns obtained from the Internal Revenue Service files for the tax years in question.

The relocation counselor will explain eligibility requirements and claim documentation if you are interested in this alternate benefit.



## **Section III: Advertising**

The owner of any outdoor advertising display(s) is eligible for a relocation payment for actual moving and related expenses.



### **Types of Payments for Advertising Signs**

#### **Actual Costs**

Actual reasonable moving expenses may be paid when the move is performed by a qualified mover (page 9). Claims for such expenses must be supported with itemized receipts or other verifiable evidence of the expense(s) incurred.

#### **Self-Move**

If you elect to take full responsibility for all or part of the move, TxDOT may approve a negotiated payment as described on page 27. Negotiated self-move payments must be approved by TxDOT prior to the start of the planned move.

### ❖ **Direct Loss of Personal Property Expenses**

This payment will be based upon the depreciated value of the sign in place as determined by TxDOT less the proceeds from its sale, or the estimated cost of moving the sign, but with no allowance for storage, whichever is the lesser amount.

**or**

### ❖ **Purchase of Substitute Personal Property**

This payment will be based upon the replacement cost of like-type sign less the sale/trade-in of current signs, or the estimated cost of moving the existing sign, but with no allowance for storage, whichever is the lesser amount.

### **Searching Expenses**

Owners of displaced advertising signs are entitled to reimbursement for actual reasonable expenses incurred in searching for a replacement sign site (page 28), not to exceed \$2,500.

#### **Caution**

To assure eligibility and prompt payment for all moving expenses, you should provide TxDOT with advance written notice of the approximate date of the planned move and a sketch of the displaced sign showing its size (dimensions), number of poles, type materials, lighting and advertisement.

Also, advertising signs that are moved to locations which do not conform with the highway beautification provisions of the Texas Litter Abatement Act will not be eligible for a relocation reimbursement.

## **Section IV:**

### **Information on Relocation Services**



#### **Relocation Assistance Services...**

Any individual, family, business or farm displaced by a State highway or transportation program shall be offered relocation assistance services for the purpose of locating a suitable replacement property. Relocation services are provided by qualified personnel employed by TxDOT. It is their goal and desire to be of service to you, and assist in any way possible to help you successfully relocate. Remember, they are there to help and advise you; be sure to make full use of their services. Do not hesitate to ask questions, and be sure you understand fully all of your rights and relocation benefits.

## **A Relocation Counselor Will Contact You...**

### **Residential Assistance**

A relocation counselor from TxDOT will contact you personally. Relocation services and payments will be explained to you in accordance with your eligibility. During the initial interview your housing needs and desires will be determined as well as your need for assistance. You cannot be required to move unless at least one comparable replacement dwelling is made available to you. When possible, comparable housing will be inspected prior to being made available to you in order to assure that it meets decent, safe and sanitary standards.

In addition, if you desire, the relocation counselor will give you current listings of other available replacement housing. Transportation will be provided to inspect available housing, especially if you are elderly or disabled. The Department will also provide counseling or help you get assistance from other available sources as a means of minimizing hardships in adjusting to your new location. Information concerning other Federal, State and local housing programs offering assistance to displaced persons is also available.

### **Business and Farm Assistance**

The relocation counselor will assist in locating commercial properties and farms whenever businesses and farms are displaced. Steps will be taken to minimize economic harm to displaced businesses and to increase the likelihood of their being able to relocate back into the affected community. The counselor will also explore and provide advice as to possible sources of funding and assistance from other local, State and Federal agencies.

## **Social Services Provided By Other Agencies**

Your relocation counselor will be familiar with the services provided by other public and private agencies in your community. If you have special needs, the counselor will make every effort to secure the services of those agencies with trained personnel who have the expertise to help you. Make your needs known in order that you may receive the proper assistance.

## **In Addition to Personal Contacts...**

In addition to personal contacts by the relocation counselor, TxDOT agency may establish a relocation office on or near a project where a considerable number of people are to be relocated. Project relocation offices are open during convenient hours, including evening hours when necessary. The personnel employed in the relocation office will also assist you.

The office maintains a variety of information concerning:

- ❖ Listings of Available Replacement Properties
- ❖ Local Housing Ordinances Building Codes
- ❖ Social Services
- ❖ Security Deposits Interest Rates and Terms
- ❖ Typical Down Payments
- ❖ VA and FHA Loan Requirements
- ❖ Real Property Taxes
- ❖ Consumer Education Literature on Housing

Visit your relocation office if one has been established - you will be more than welcome.

# **Relocation Advisory Assistance**

## **Checklist**

This checklist is a summary of the relocation advisory assistance you may reasonably expect to receive if you are displaced by a State highway or transportation project. In addition to the services listed, TxDOT is required to coordinate its relocation activities with other agencies causing displacements to ensure that all persons displaced receive fair and consistent relocation benefits.

The Relocation Counselor will personally interview displacees to:

- ❖ Determine their Needs and Preferences
- ❖ Explain Relocation Benefits
- ❖ Offer Assistance
- ❖ Offer Transportation if Necessary
- ❖ Assure the Availability of a Comparable Property in Advance of Displacement
- ❖ Provide Current Listing of Comparable Properties
- ❖ Provide the Amount of the Replacement Housing Payment in Writing
- ❖ Inspect Houses for DSS Acceptability
- ❖ Supply Information on other Federal
- ❖ and State Programs Offering Assistance to Displacees
- ❖ Provide Counseling to Minimize Hardships

## **Section V: Claim for Payment**

### **How Do I Obtain My Relocation Payment?**

You must file a claim for reimbursement. The Department will provide you with the required claim forms, assist you in completing them, and explain the type of documentation, if any, that you must submit in order to receive your relocation reimbursement. If the expenses that you must meet prior to your move cause a hardship, discuss your financial needs with TxDOT.

### **When Should I File My Claim?**

You must file your claim no later than 18 months after you move. However, it is to your advantage to file as soon as possible after you move. The sooner you submit your claim, the sooner it can be processed and paid.

### **Duplicate Payments**

If you are unable to file your claim within 18 months, TxDOT may extend this time period. The Department is required to pay you promptly after you file an acceptable claim. If there is any question regarding your right to a relocation payment or the amount of the payment, you will be notified, in writing, of the problem and the action you may take to resolve the matter. No payment will be made under the Relocation Program if the displaced person is eligible to receive another payment provided by law that has substantially the same purpose and effect as the relocation payment.

## **Another Important Benefit ...**



**No Adverse Effects on:**

**Social Security Eligibility**

**Welfare Eligibility**

**Income Taxes**

**Etc.**

No relocation payment received will be considered as income for the purpose of the Internal Revenue Code or for the purposes of determining eligibility or the extent of eligibility of any person for assistance under the Social Security Act or any other Federal law.



## **Section VI: Your Right of Appeal**

If you believe that TxDOT has failed to properly determine your eligibility for, or the amount of, a payment, you may appeal to TxDOT's Relocation Assistance Review Committee. If you indicate your dissatisfaction, either verbally or in writing, TxDOT will assist you in filing an appeal and explain the procedures to be followed. You will be given a prompt and full opportunity to be heard by the Review Committee. You have the right to be represented by legal counsel or other representative in connection with the appeal, (but solely at your own expense).

The Review Committee will consider all pertinent justification and material submitted by you and other available information needed to ensure a fair review. This Committee will provide you with a written determination resulting from the appeal with an explanation of the basis for the decision.

## **Section VII: Your Civil Rights**

In accordance with Title VI of the Civil Rights Act of 1964 and related statutes, it is the policy of the Department to ensure that no person in the United States of America shall, on the grounds of race, religion (where the primary objective of the financial assistance is to provide employment. 42 U.S.C. §2000d-3), color, national origin, sex, age, retaliation or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any of our programs or activities.

If you believe you have been discriminated against or your rights have been violated under any program or activity of the Department, you may file a Title VI Discrimination Complaint.

The Title VI Discrimination Complaint Form can be obtained by:

- Visiting TxDOT's website at [http://www.txdot.gov/txdot\\_library/forms/civil\\_rights.htm](http://www.txdot.gov/txdot_library/forms/civil_rights.htm)
- Contacting the Office of Civil Rights 1-866-480-2518.
- Visiting, in person, the Office of Civil Rights located at 125 E. 11th Street, Austin, Texas 78701.

If you have any questions regarding the completion of the form, you may contact the Office of Civil Rights at the number listed above. Upon request, assistance will be provided if you are limited English proficient or disabled. Complaints may be filed using an alternative format e.g., computer disk, audio tape or in Braille. If you have a speech or hearing impairment, dial Texas Relay at 1-800-735-2988 or 711 for assistance.

The Department's Office of Civil Rights will notify you when it receives your complaint.

## Notes

## **Relocation Office**

You may contact the Relocation Assistance Office at the following address for relocation advisory assistance or information pertaining to the State law and procedures which regulate this program.